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| 09/788,660 | 02/21/2001 | Koichi Kamon | 48864-036 | 5975 |

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MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
WASHINGTON, DC 20005-3096

EXAMINER

VILLECCO, JOHN M

| ART UNIT | PAPER NUMBER |
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2612

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,660

Applicant(s)

KAMON ET AL.

Examiner

John M. Villecco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7, 10 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 2, 4 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/21/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on July 27, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings are objected to because of the following informalities.
 - In Figure 4 applicant refers to reference number 3 as a "degital camera". This appears to be a typographical error and that the applicant meant to use the phrase – digital camera –.
 - In Figure 10, applicant recites a "MWASURING AREA" in step T3. This appears to be a typographical error and that the applicant meant to use the phrase – MEASURING AREA –.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

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sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 105 in Figure 22 and 210 in Figure 23. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

- On page 9, line 6, of the specification applicant recites the phrase “image acquires”. This appears to be a typographical error and that the applicant meant to use the phrase – image acquired –

Appropriate correction is required.

Claim Objections

6. Claim 4 is objected to because of the following informalities:

- In lines 6-7 of claim 4 applicant recites the limitation of “the three-dimensional measuring device”. However, this wording presents an antecedent basis problem, since there was no previous mentioning of the three-dimensional measuring device. For examination purposes it will be assumed that the applicant meant to use the phrase – a three dimensional measuring device –.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3, 9, and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by

Uomori et al. (U.S. Patent No. 6,587,183).

9. Regarding *claim 1*, Uomori discloses a two-dimensional photographing camera (533) and a pair of strobes (505 and 506), which act as the three dimensional measuring device. The strobes are removably attached to the camera body (501). See Figures 37(a) and 37(b) and column 23, lines 26-38. The strobes (505 and 506) emit light which is captured by the camera in order to determine the shape of a subject. It is inherent that the camera (533) lets the strobe know when to emit light for determining the shape of a subject, as evidenced by the synchronizing signal from the camera to the strobe shown in Figure 31. The synchronizing signal is interpreted to be the information indicating an operating condition.

10. With regard to *claim 3*, Uomori discloses a two-dimensional photographing camera (533), which inherently includes a photographing portion, and a pair of strobes (505 and 506), which act as the three dimensional measuring device. The strobes are removably attached to the camera body (501). See Figures 37(a) and 37(b) and column 23, lines 26-38. The strobes (505 and 506) emit light which is captured by the camera in order to determine the shape of a subject. It is inherent that the camera (533) lets the strobe know when to emit light for determining the shape of a subject, as evidenced by the synchronizing signal from the camera to the strobe shown in Figure 31. The synchronizing signal is interpreted to be the information indicating an operating condition. Additionally, the photographing device would inherently include a transmitting device for transmitting the synchronizing signal to the strobe control circuit (534) and the strobe would inherently include a receiving portion. The strobe control circuit is

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interpreted to be the setting portion since it operates to control the emitting of light from the strobes. Furthermore, the strobes, themselves, are interpreted to be the three-dimensional measuring portion since they operate to help measure a shape in accordance with the synchronizing signal.

11. As for *claim 9*, Uomori discloses a two-dimensional photographing camera (533) and a pair of strobes (505 and 506), which act as the three dimensional measuring device. The strobes are removably attached to the camera body (501). See Figures 37(a) and 37(b) and column 23, lines 26-38. The strobes (505 and 506) emit light which is captured by the camera in order to determine the shape of a subject. It is inherent that the camera (533) lets the strobe know when to emit light for determining the shape of a subject, as evidenced by the synchronizing signal from the camera to the strobe shown in Figure 31. The synchronizing signal is interpreted to be the information indicating an operating condition. Furthermore, a structure would inherently be present for the camera to transmit the synchronizing signal to the strobes.

12. With regard to *claim 11*, Uomori discloses a two-dimensional photographing camera (533) and a pair of strobes (505 and 506), which act as the three dimensional measuring device. The strobes are removably attached to the camera body (501). See Figures 37(a) and 37(b) and column 23, lines 26-38. The strobes (505 and 506) emit light which is captured by the camera in order to determine the shape of a subject. The strobes are interpreted to be both the three-dimensional measuring portion and the transmitting portion. They serve as the three-dimensional measuring portion since they help in determining a shape of a subject. They serve as the transmitting portion because they are transmitting information, using the reflected light, of a measurement condition to the camera

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13. As for *claim 12*, Uomori discloses a two-dimensional photographing camera (533) and a pair of strobes (505 and 506), which act as the three dimensional measuring device. The strobes are removably attached to the camera body (501). See Figures 37(a) and 37(b) and column 23, lines 26-38. The strobes (505 and 506) emit light which is captured by the camera in order to determine the shape of a subject. It is inherent that the camera (533) lets the strobe know when to emit light for determining the shape of a subject, as evidenced by the synchronizing signal from the camera to the strobe shown in Figure 31. The synchronizing signal is interpreted to be the information transferred from the two-dimensional photographing device. Based on the synchronizing signal the light source control part (534) controls the light emission for 3-D measuring. Furthermore, it is inherent that the light source control part (534) includes a receiving portion for receiving information. Finally, the strobes, themselves, are interpreted to be the three dimensional measuring portion since they help measure the shape of the subject in accordance with the synchronizing signal.

14. With regard to *claim 13*, as shown in Figures 37(a) and 37(b) Uomori discloses that the strobe and the camera have different housings.

Allowable Subject Matter

15. Claims 2 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claim 2**, the primary reason for indication of allowable subject matter is that the prior art fails to teach or reasonably suggest that the operating condition of the two-dimensional photographing device includes at least one of a photographing area, a photographing resolution, a focal distance, the number of pixels, and a magnification ratio, and the operating condition of the three-dimensional measuring device includes at least one of a measuring area, a measuring resolution, an angle indicating the measuring area, and the number of measuring points.

As for **claim 8**, the primary reason for indication of allowable subject matter is that the prior art fails to teach or reasonably suggest that the information indicating the photographing condition is a photographing area and a photographing resolution of the photographing portion, and the information indicating the measurement condition is a measuring area and a measuring resolution of the three-dimensional measuring portion.

17. Claims 4-7, 10, and 21-25 are allowed.

18. Regarding **claim 4**, if the objection presented above is overcome, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the two-dimensional photographing portion includes a calculating portion for calculating information related to the measurement condition of a three-dimensional measuring device and a transmitting portion for transmitting the calculated information.

19. As for **claim 5**, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-

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dimensional photographing device, the two-dimensional photographing device includes a setting portion for setting a photographing condition in accordance with the information received from the three-dimensional measuring portion.

20. With regard to *claim 6*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the three-dimensional photographing portion includes a calculating portion for calculating information related to the measurement condition of the two-dimensional measuring device and a transmitting portion for transmitting the calculated information.

21. Regarding *claim 7*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the two-dimensional photographing device includes a receiving device for receiving the information from three-dimensional measuring device and a setting portion for setting a photographing condition in accordance with the received information when the receiving portion received the information transmitted from the three-dimensional measuring device.

22. As for *claim 10*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a two-dimensional photographing device to which a three-dimensional measuring device is removably attached, the two-dimensional measuring device includes a receiving portion for receiving information from the three-dimensional measuring device and a setting portion for setting a photographing condition in accordance with the received information.

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23. With regard to *claim 21*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the three-dimensional measuring device includes a outputting portion for outputting the measured distance information to the two-dimensional photographing device.

24. Regarding *claim 22*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the two-dimensional photographing device includes a receiving portion for receiving the measured distance information from the three-dimensional measuring device.

25. As for *claim 24*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest a three-dimensional measuring device that is removably attached to a two-dimensional photographing device, the three-dimensional measuring device including an acquiring device for acquiring a measurement result and outputting the measurement result to the two-dimensional photographing device.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306 (For either formal or informal communications intended for entry. For informal or draft communications, please label **"PROPOSED"** or **"DRAFT"**)

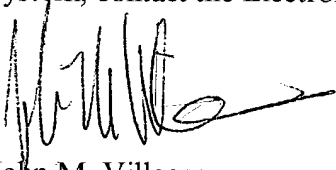
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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (703) 305-1460. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Villecco
November 15, 2004



WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600